



T A X Audit

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June 28, 2018

SYNOPSIS

- INTRODUCTION
- OBJECTIVE
- LIMIT
- TAX AUDITORS ROLES AND RESPONSIBILITY
- REPORTING FORMAT AND RELEVANT SECTIONS
- PRESUMPTIVE INCOME
- AMENDMENTS AT A GLANCE
- GST RELATED CLAUSES
- ICDS APPLICABILITY AND DISCLOSURE
- QUALIFYING TAX AUDIT REPORT
- RELEVANT STANDARDS ON AUDITING
- CASE LAWS

Introduction

- ✓ Statutory Compliance
- ✓ Effective from 1985
- ✓ Periodical modification [present forms – 4 times]
- ✓ Guidance Note issued by ICAI – [5 times]
- ✓ Latest amendments vide Notifications dated 19th July 2017
- ✓ **Further amendments & Guidance Note expected**

Objective...

- Income Tax Act requires the **accounts** of the Tax Payer to be audited from the view point of Income Tax Act, 1961
- Requirements are based on the reporting Form **3CA/CB & 3CD**
- To ensure that the books of accounts and other records are properly maintained, that **truly reflects** the Income of the tax Payer
- To **facilitate** the administration of Tax Laws by a proper presentation of accounts before Tax Authorities and SAVE HIS TIME.
- **Recently, Department has been issuing notices mentioning inconsistency in Form 3CD reporting, when compared with ITR**

Limit to number of Tax Audits ??

- Revised to **60** from 45 numbers w.e.f FY 2014-15
- Inclusion of Joint Audit, Branch audits, 44AD, 44ADA, audit under any other statues in 60 Nos.??
- The limit is prescribed to per Person, hence a Partnership Firm can multiply according to its number of Partners.
- Can a Chartered Accountant certify more than the prescribed numbers?
- Yes, the **threshold limit applies to the Partnership firm** (FAQ on Tax Audit Assignments), provided Standard on Quality Control (SQC) 1 is followed.
- **Constitutionality of this Limit is under study, since the limit flows through Council General Guidelines, 2008**

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Roles & Responsibilities

- ✓ Tax Auditor must be **Chartered Accountant**.
- ✓ Communication with **Previous Auditor** by Registered A.D or in Person, if applicable
- ✓ Obtain **Letter of appointment** & must agree with terms of audit engagement letter
- ✓ **Reporting on accounts**, not computing income
- ✓ Reporting on relevant information in Form-3CD
- ✓ The tax auditor shall maintain **proper working papers**. Such working paper shall include:
 - ❖ Work done while conducting the audit and by whom;
 - ❖ Explanations and information received;
 - ❖ Judicial pronouncements relied;
 - ❖ Decision on various points taken;
 - ❖ Certificates issued by client

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VERIFICATION PROCEDURES...

- ✘ **Responsibility of preparing required information in Form No 3CD is with assessee**
- ✘ Design audit program
- ✘ Test Checks and Compliance Checks
- ✘ Ensure documentation
- ✘ Working papers & notes
- ✘ Management representation
- ✘ Judicial precedents
- ✘ Exercise own Judgment
- ✘ Conclusion
- ✘ Certification within the time limit

Reporting Formats...

Form No.	Form Requirement
3CA	Rule 6G (1) (a) : by person who carries on business or profession and who is required by or under any other law to get his accounts audited
3CB	Rule 6G (1) (b) : Any other person
3CD	Reporting format

Reporting Formats...

Particulars	To Do in Form 3CA
To Indicate	<p>Whether the statutory audit was conducted by Tax auditor or any other auditor; the name in case of any other auditor</p> <p>Whether Audit Report, Audited Balance Sheet & Statement of Profit & Loss and other documents to be part of or annexed thereto are annexed in Form No. 3CA</p> <p>Reference as to the date of Statutory Audit Report</p> <p>Whether the particulars required is annexed in Form No. 3CD</p> <p>Whether the particulars given in Form No. 3CD are true and correct</p> <p>Any observation/qualification</p>
To examine	<p>The books of account</p> <p>Other relevant documents</p>
To state reasons	Qualifications, if any
To Indicate	if the branch audit is carried out, the same have been considered

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Reporting Formats...

Particulars	To Do in Form 3CB
To Indicate	<p>Whether Audit Report, Audited Balance Sheet & Statement of Profit & Loss and other documents to be part of or annexed thereto are annexed in Form No. 3CA</p> <p>Whether the particulars required is annexed in Form No. 3CD</p> <p>Whether the particulars given in Form No. 3CD are true and correct</p> <p>Any observation/qualification</p>
To examine	<p>The books of account</p> <p>Other relevant documents</p>
To state reasons	Qualifications, if any
To Indicate	if the branch audit is carried out, the same have been considered

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Clauses in Form 3CD...

Sl. No.	Nature of Reporting	Relevant Clauses in Form 3CD
1	Basic informations / Facts of the Assessee and its business	1 to 13, & 41
2	Reporting on facts	15, 27, 28, 29, 32, 35, 36, 40
3	Reporting – Non Compliance	30, 31, 33, 34, 37, 38, 39
4	Quantification of Admissible items	14, 16 to 20
5	Disallowance of Inadmissible Items	21, 22, 23, 26
6	Deemed income	24,25

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Relevant Sections...

Section Reference	Sections Head
44AB	Audit of Accounts of Certain Persons carrying on Business or Profession
28-44	Profits & Gains of Business or Profession
192-195	Deduction of Tax at Source
197,197A	Certificate of Deduction of Tax at Source, and No deduction to be made in certain cases
271B	Failure to get Accounts audited
Rule 6G	Report of audit of accounts to be furnished under section 44AB

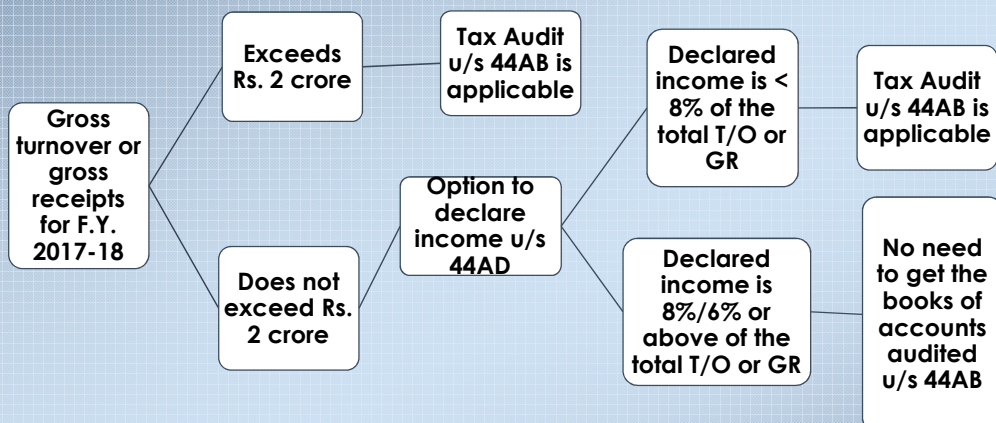
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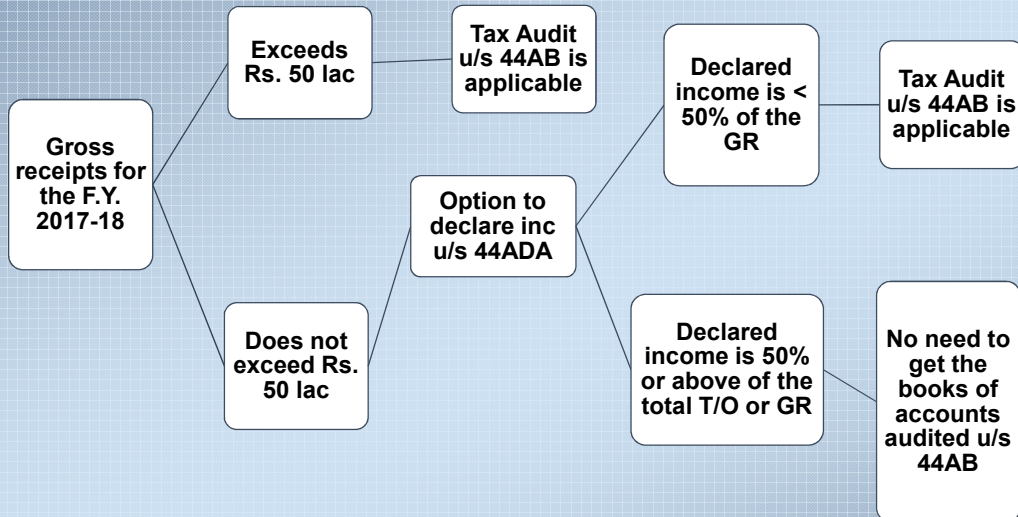
Penalty...

Section	Form Requirement
271B – Failure to get the accounts audited or furnish report as required u/s 44AB	<p>Lower of A or B:</p> <p>A1) 0.5% of Total sales or Turnover or Gross Receipts for Business</p> <p>A2) 0.5% of Gross Receipts for Profession</p> <p>B) Rs.1,50,000</p>

APPLICABILITY- ASSESSEE ENGAGED IN BUSINESS



APPLICABILITY- ASSESSEE ENGAGED IN PROFESSION



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Comparison...

Section 44AD	Section 44ADA
Applicable to Individuals/HUF/P.Firm	Applicable to any Resident Assessee
Not applicable to person engaged in profession referred in 44AA(1), person earning Commission/Brokerage or in agency business	Applicable to a person engaged in profession referred in 44AA(1) Gross receipts not exceeding Rs.50 lakhs
The turnover included should have been realized on or before filing of RoI u/s 139(1)	No such clause
<u>Section 44AD(4)</u> FY 2017-18-44AD opted FY 2018-19 to 2022-23 – not opted NOT ELIGIBLE FOR SUBSEQUENT 5 FY.	No such Limitation clause
6% for receipts/TO by banking means 8% for others	50% of Gross Receipts or a sum higher

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Situations	Firm	Partner
Firm's revenue > 50 lakh	<ul style="list-style-type: none"> - Not eligible for presumptive taxation - Claim expenditure on interest and remuneration - Sec 44AA and 44AB Applicable 	<ul style="list-style-type: none"> - To pay tax on interest and remuneration allowed by firm - Not to consider share of profit as part of gross receipt
Firm's revenue <= 50 Lakh	<ul style="list-style-type: none"> - Presumptive taxation - No deduction for interest and remuneration - No tax audit 	<ul style="list-style-type: none"> - Entire Income is considered as Share of Profit

Applicable Significant Amendments



Finance Act 2017 amendments...

3 CD Clause	Relevant Section	Remarks
19	35AD (8) (f)	<u>Deduction in respect of Expenditure on specified Business</u> Capital Expenditure shall not include payment of Rs.10,000 other than specified mode.
21 (d) A & B	40A(3) & 40A(3A)	Rs.20,000 substituted by Rs.10,000
	43(1)	<u>Definition of Actual cost</u> (sections 28-41 wherever applicable) is amended to reduce the cap of Rs.20,000 to Rs.10,000
11(a)	44AA (2) (i) & (ii)	Threshold for maintaining Books of Accounts for persons (<i>Individuals/HUF</i>) carrying Business or Profession (not being profession mentioned in 44AA(1), in any of 3 preceding previous years, for existing assesses <ul style="list-style-type: none"> - Total Income - 1.2 lakhs to 2.5 Lakhs or - Total Sales/Turnover or Gross receipts – 10 Lakhs to 25 Lakhs

Finance Act 2017 amendments...

3 CD Clause	Relevant Section	Remarks
12	44AD	Whether the Profit & Loss account includes any profits & Gains assessable on presumptive basis. (Section 44AD, 44ADA, 44AE, 44B, 44BB, 44BBA, 44BBB, etc.)
33	10AA	Income cannot be negative after claim under this section
26	43B(e)	<u>Deduction on actual payment</u> : To include Interest payable on any loan or advances, to cooperative bank other than Primary agri credit society or primary cooperative agri and rural development bank
32(b)	79 (Applicable from FY 2017-18)	Section bifurcated in to sub-clauses. Clause (a) remains same, except for removing entities claiming deduction u/s 80 IAC, in which the share holding has to be same 100%, else the carried forward loss of prior year is not allowed to be set off or carried forward to future years. The removed entities is inserted as clause (b)

Finance Act 2017 amendments...

3 CD Clause	Relevant Section	Remarks
33	80IAC	Assessee's option to claim 100% deduction for any 3 consecutive assessment years out of 7 years (5 Years) beginning from which eligible startup is incorporated.
-	92BA	<u>Meaning of Specified Domestic Transaction</u> Deleted "Expenditure in respect of Payment made to persons specified in 40A(2)(b)"
-	115JAA	<u>Tax Credit in respect of tax paid on Deemed Income</u> Carry forward of MAT credit is now allowed for 15 years (10 Years) Proviso inserted to ignore the excess of tax paid in any other country as per Section 115JB
21(b)	194J	<u>Fees for professional or technical Service</u> Tax to be deducted at 2% for payments , made to persons engaged in call centres (w.e.f 01.06.2017)

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Finance Act 2017 amendments...

3 CD Clause	Relevant Section	Remarks
-	94B	Limitation of Interest deduction in certain cases i) Indian Company or a PE of a Foreign Company borrows ii) Incurs Interest or of similar nature in excess of Rs.1 crore iii) In respect of any debt issued by an <u>Associate Non-resident</u> , iv) The amount of disallowance is <u>lower</u> of – a. Total Interest paid or payable less 30% of EBITA b. Interest paid or payable for that Previous year V) If the lender is a non-associate, but AE has given guarantee or deposit such amount with the lender, then such amount is deemed to be borrowed from AE vi) This section is not applicable to Insurance & Banking companies Such disallowed Interest is eligible to be carried forward and adjustment to a maximum of 8 years.
34	206CC	<u>Requirement to furnish PAN by collectee</u> Tax shall be collected at the rate of twice the prescribed rate or 5% which ever is high.

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Finance Act 2017 amendments...

3 CD Clause	Relevant Section	Remarks
-	211	Advance tax provisions extended to 44ADA
-	234F	<p><u>Fee for defaults in filing of RoI</u></p> <p>a) Rs. 5,000 if return is furnished on or before December 31.</p> <p>b) Rs. 10,000 in any other case</p> <p><i>Note: if total income of the person does not exceeds Rs. 5 lakh then fee payable shall be Rs. 1,000</i></p>
-	269ST/271D A	<p>No person to receive an amount of Rs.2,00,000 or more</p> <p>(a) In aggregate form <u>a person in a day</u> or</p> <p>(b) In respect of a <u>single Transaction</u> or</p> <p>(c) In respect of transactions relating to <u>one event or occasion</u> from a person</p> <p>Failing which penalty of 100% is leviable u/s 271DA vested with Joint Commissioner</p>

Finance Act 2017 amendments...

3 CD Clause	Relevant Section	Remarks
-	115JB	<p><u>Special provision for Payment of Tax by Certain Companies</u></p> <p>In case whose Financial statements are drawn upto comply with IND AS, Book Profit shall be further adjusted by certain items</p>
-	271J	<p><u>Penalty for furnishing Incorrect information in report or certificate</u></p> <p>Penalty of Rs.10,000 leviable on any CA or Merchant banker or Registered valuer, if any incorrect information in any report or certificate</p>

Finance Act 2018 amendments...

3 CD Clause	Relevant Section	Remarks
-	2(22)	<u>Dividend – Explanation 2A inserted</u> Accumulated profits of Amalgamating Company shall be considered as part of accumulated profits of the Amalgamated Company, on the date of Amalgamation
	79	<u>Carry forward and set off of losses in case of certain companies</u> Proviso inserted. Where there is change in share holding takes place in a previous year pursuant to a resolution plan approved under the Insolvency and Bankruptcy code, subject to a reasonable opportunity of being heard is provided to Jurisdictional Principal Commissioner of IT or Commissioner.
	80AC	<u>Deduction not to be allowed unless Rol is furnished</u> Income claimed as deduction under Heading "C-Deductions in respect of Certain Incomes" is now linked to filing of Rol within due date u/s 139(1).

Finance Act 2018 amendments...

3 CD Clause	Relevant Section	Remarks
	80IAC	<u>Deduction for Startups</u> Eligible Business has been modified "...or services driven by technology or Intellectual property or a scalable business model with a high potential of employment generation or wealth creation"
	115JB	<u>MAI</u> Clause inserted to adjust both B/f depreciation & b/f loss in case of a Company whose application for Corporate Insolvency resolution has been admitted by adjudicating Authority.
	139A	Requirement to Obtain PAN if Financial transaction more than Rs.2,50,000 or more in a FY a. by every Resident person other than Individual or b. by every person holding the office of MD, Director, Partner, Trustee, Author, founder, karta, CEO, Principal officer....or any competent person of any entity referred in (a) above

Finance Act 2018 amendments...

3 CD Clause	Relevant Section	Remarks
	143	<u>Assessment</u> Proviso inserted to Section 143(1)(a) nullifying, which relates to prima facie adjustment to the returned Income based on Income appearing in form 26AS or Form 16 or 16A.



GST related clauses

GST related Clauses...

The Statutory Auditor has more responsibility to verify the GST Compliance than the Tax Auditor

3 CD Clause	Relevant Section	Remarks
	-	GSTIN of the Tax Payer
11 (b)	44AA	List of Books of account maintained, and its location
14	145A	<ul style="list-style-type: none"> - Method of valuation - How transition credits to be factored - Report on old stock - Report on Scrap - Report on byproduct stock valuation
16	28	<ul style="list-style-type: none"> - Amount not credited to P&L, identifiable from CL - Escalation claims accepted [Sec 142(2) (a)]

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GST related Clauses...

3 CD Clause	Relevant Section	Remarks
21(a)	-	Amount debited to P&L, being in nature of personal, Club services. (Provisions of blocked credits)
37	-	Whether any Cost Audit was carried out, if yes details of disqualification or disagreement on any item/matter/value/quantity as may be reported or identified by the Auditor

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ICDS Disclosures

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ICDS – Applicability – TO WHOM

— Assesses following Mercantile basis of Accounting

∞ Income from Business/ Profession or Other Sources

∞ To all assesses except Individuals / HUF not subject to Audit u/s 44AB

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ICDS...

No.	Heading
I	Accounting Policies
II	Valuation of Inventories
III	Construction Contracts
IV	Revenue Recognition
V	Fixed Assets
VI	Effects of Changes in Foreign Currency rates
VII	Government Grants
VIII	Securities
IX	Borrowing Costs
X	Provisions, Contingent Liabilities and Contingent Assets

ICDS Disclosures...

ICDS No.	Disclosures
I	<p>a. Significant accounting policies. b. Material impact due to change in accounting policy, if any</p> <p>Refer separate annexure - 'Accounting Policies'</p>
II	<p>a. Accounting policy used for measurement, (including cost formulae) b. carrying amount of inventory and its classification.</p> <p>The closing stock is valued at cost (including cost of purchase) or market price whichever is less The carrying amount with classification is disclosed in FS</p>

ICDS Disclosures...

ICDS No.	Disclosures
III	a. Amount of Contract revenue recognised and method used to determine stage of completion for contract in progress b. Amount of cost and profit till date c. advances received d. amount of retention ICDS related to Construction Contracts is not applicable

ICDS Disclosures...

ICDS No.	Disclosures
IV	a. • Revenue unrecognized due to uncertainty b. • Method used to determine stage of completion of service transactions c. • Service transactions in progress <u>FOR SALE OF GOODS</u> There are no transactions involving sale of goods where no revenue is recognized due to lack of reasonable certainty of its ultimate collection <u>FOR SALE OF SERVICES</u> Revenue is reported separately and is included in P&L. There are no service transaction in progress at the end of the Year.

ICDS Disclosures...

No.	Disclosures
V	a. Description of block of asset b. Rate of depreciation c. Actual cost or WDV d. addition and deduction during the year, e. In case of addition adjustment on account of CENVAT, change in exchange rate , subsidy grant or reimbursement, f. depreciation allowable g. WDV at the end of the year The disclosures regarding ICDS V are made against clause no.18 of Form 3CD
VI	No Disclosure required
VII	Nature and extent of Government Grants recognised during the previous year i) by way of deduction from actual cost of assets or not (with reasons) ii) as income or not (with reasons) ICDS related to GG are not applicable

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ICDS Disclosures...

No.	Disclosures
VIII	No Disclosure required
IX	a. Accounting policy adopted for borrowing cost b. Amount of borrowing cost capitalized during PY Borrowing cost that are directly attributable to the acquisition, construction or production of a qualifying asset shall be capitalized as part of cost of that asset No borrowing cost has been capitalized during the PY
X	ICDS relating to Contingent Liabilities & Assets are not applicable. Disclosure related to provisions/asset are as follows a. Nature of obligation b. Carrying amount at the beginning of the year & end of the year c. Additional provision d. Incurred provision e. Unused provision reversed

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Qualifying Tax Audit Report...

Qualification Type
Incomplete informations from the Tax Payer
Creditors under MSME not ascertainable
Insufficient documents produced
FMV as per section 56(2)(viiia)/(viiib)
GP ratio not ascertainable
Information regarding demand raised or refund issued under other laws
Non-maintenance of proper books of Accounts
Documents produced for issue of crossed cheques
Details of audit under Excise/Service Tax laws
Documents for TDS returns and details verification
Valuation of stock
Yield/percentage of wastage is not ascertainable
Any Other matter

Relevant SA's

- ✓ SA 230 - Audit Documentation
 - Form of Audit report (Report form)
 - Working papers file (Permanent, Current)
- ✓ SA 500 – Audit Evidence
 - External & Internal
 - Compliance & Substantive testing
- ✓ SA 501 – Audit Evidence – Specific considerations for selected items – eg. Physical inventory, Litigations, Long Term Investments, etc.
- ✓ SA 610 - Using the work of internal auditor
- ✓ SA 300 – Planning an audit of financial statements
 - Knowledge of business
 - Overall Plan
 - Detailed Audit Programme
- ✓ SA 620 – Using the work of an Auditor's Expert – AS 15, 28, etc.
- ✓ SA 600 – Reliance on work of another auditor
- ✓ SA 580 – Management representations
- ✓ SA 320 – Materiality - Relevance for AS
- ✓ SA 250 - Consideration of laws & regulations
- ✓ SA 505 – External confirmation

Case Laws

Case Laws...

Associated Metals Co. Ltd. [TS-179-HC-2018(ALL)]

Authority	In Favour of	Remarks
AO	Dept.	Applicability of Section 2(22)(e) on NO ACTUAL PAYMENTS.
CIT(A)	Assessee	Deleted the addition
ITAT	Assessee	Confirmed the view of CIT(A)
Allahabad HC	Assessee	Confirmed the view of CIT(A)

Case Laws...

Virtual Soft Systems Ltd. [TS-205-SC-2018] Pvt Ltd [TS-277-HC-2018(GUJ)]

Authority	In Favour of	Remarks
AO	Dept.	Disallowance of Lease equalization charges
CIT(A)	Dept.	Confirmed the disallowance
ITAT	Assessee	Set aside the order of CIT (A) & AO
HC	Assessee	Confirmed the view of ITAT
SC	Assessee	

Case Laws...

Organizing Committee Hero Honda FIH World Cup [TS-165-HC-2018(DEL)]

Authority	In Favour of	Remarks
AO	Dept.	Reimbursements claimed by FIH on account of Payouts made on behalf of the Assessee were tax deductible u/s 195
CIT(A)	Assessee	Provided evidences of actual reimbursement The assessee could not hold an independent inquiry into each transaction i.e payment to service providers. No privity of Contract with Service Provider
ITAT	Assessee	Confirmed the view of CIT(A)
Delhi HC	Assessee	Confirmed the view of CIT(A)

Thank You



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